

THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER

M.A.C.M.A.No.2085 of 2005

JUDGMENT:

Aggrieved by the grant of compensation of Rs.1,75,000/- as against a claim of Rs.5,00,000/-, vide order, dated 21.03.2005, passed in O.P.No.333 of 2001 by the Chairman, Motor Accident Claims Tribunal-cum-I Additional District Judge, Nizamabad ('the Tribunal', for brevity), the claimants preferred this appeal under Section 173 of the Motor Vehicles Act, 1988 ('the Act', for brevity), seeking enhancement of compensation.

2. Heard the learned counsel for both sides and perused the record.

3. The learned counsel for the appellants-claimants would contend that the deceased-M.Kashiram was 20 years old as on the date of the subject accident. He was an agriculturist and was earning Rs.10,000/- per month. The Tribunal had taken the annual income of the deceased as Rs.15,000/- notionally and assessed the compensation payable at Rs.1,60,000/- towards loss of dependency. The Tribunal granted Rs.10,000/- towards loss of estate and Rs.5,000/- towards expenses for transportation of the dead body. In all, the Tribunal granted a total compensation of Rs.1,75,000/- as against a total claim of Rs.5,00,000/-, which is meagre. The Tribunal ought to have taken the monthly income of the deceased as Rs.3,000/- and ought to have granted some more amount under other conventional heads and ultimately prayed to enhance the compensation as claimed.

4. On the other hand, the learned Standing Counsel for the 2nd respondent-Insurance Company would contend that since the subject accident occurred on 04.11.2000, the Tribunal is justified in taking the annual income of the deceased as Rs.15,000/-. The Tribunal had granted just compensation on other conventional heads. There are no circumstances to enhance the compensation and ultimately prayed to dismiss the appeal by confirming the order under challenge.

5. It is not in dispute that the deceased-Madduri Kashiram died in a road accident occurred on 04.11.2000, due to rash and negligent driving of the driver of the lorry bearing registration No.AP-09-U-3708. The only point that arises for determination in this appeal is whether the appellants-claimants are entitled for enhancement of the compensation as claimed.

6. The appellants-claimants are the parents of the deceased. As per the criminal case record and the evidence on record, the deceased was 20 years old as on the date of the subject accident. The appellants-claimants contended that the deceased used to earn Rs.10,000/- per month. There is no documentary evidence to that effect. Further, no certificates showing the educational qualifications of the deceased were filed before the Tribunal. However, as the deceased was 20 years old as on the date of accident, it can be held that he was supporting his parents (appellants-claimants). In view of the same, the monthly income of the deceased can be taken as Rs.2,000/-. As per the decision of the Apex Court in Munnalal Jain and others

v. Vipin Kumar Sharma and others¹, when the deceased is a bachelor, relevant multiplier applicable to his age group has to be taken into consideration to assess the compensation for loss of dependency. As per the judgment of the Apex court in case between Sarla Verma v. Delhi Transport Corporation², the appropriate multiplier applicable to the age of the deceased (20 years) is '18'. When the monthly income of the deceased is taken as Rs.2,000/-, half of it is deducted towards personal expenses of the deceased and multiplier '18' is applied, the total loss of dependency would come to Rs.2,16,000/- (Rs.2,000/- x 50% x 12 x 18). The appellants-claimants are also entitled for Rs.15,000/- towards loss of estate and another Rs.15,000/- towards funeral expenses. In all, the appellants-claimants are entitled for a compensation of Rs.2,46,000/- (Rs.2,16,000/- + Rs.15,000/- + Rs.15,000/-). The Tribunal granted interest @ 9% per annum from the date of petition till realisation on the compensation awarded. This Court deems it appropriate to grant interest @ 7.5% per annum on the enhanced amount of compensation from the date of petition till realisation.

7. Accordingly, this appeal is allowed in part, modifying the order, dated 21.03.2005, passed in O.P.No.333 of 2001 by the Tribunal, enhancing the compensation from Rs.1,75,000/- to Rs.2,46,000/-. The enhanced amount of compensation carries interest at the rate of 7.5% per annum from the date of petition till realisation. On deposit of the enhanced compensation, the appellants-claimants are permitted to withdraw the entire

¹ 2015 (6) Supreme Court Cases 347

² AIR 2009 SC 3104

amount along with the interest accrued thereon, equally. Other terms of the Order under challenge remain unaltered. No costs.

Pending Miscellaneous Petitions, if any, shall stand closed.

Dr. SHAMEEM AKTHER, J

29th August, 2018
Bvv

